

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

GWENDOLYN HARSELL,

Charging Party,

-v-

BOONE KARLBERG, P.C. and RANDY
COX

Respondents.

Case No's: 0061011791 &
0061011792

ORDER

Gwendolyn Harsell (Harsell) filed complaints with the Department of Labor and Industry (Department) alleging that her former employer, Respondent Boone Karlberg, P.C. and Respondent, Randy Cox, discriminated against her based on gender and retaliated against her for complaining about sexual harassment. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Harsell's allegations of unlawful discrimination or retaliation. The Department issued a Notice of Dismissal in regard to each Respondent. Harsell filed objections with the Montana Human Rights Commission (Commission) and requested oral argument. The Commission considered the matters on September 20, 2006.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Mont. Code Ann. § 49-2-509(4)(2003); Admin. R. Mont. 24.9.1714(3)*. After careful consideration, the Commission concludes the determinations of the Department to dismiss the complaints are not an abuse of discretion. The determinations are supported by thorough investigations, the findings of fact are sufficiently supported and the conclusions of law are correct.

A party may ask a district court to review a decision of the Commission to affirm the dismissal of a complaint. *Admin. R. Mont. 24.9.1714(7); See also Mont. Code Ann.*

§ 2-4-702. If a charging party chooses to commence a civil action, charging party has 90 days after the receipt of this order to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) (2003); Admin. R. Mont. 24.9.1714(5)*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Harsell's objections are **overruled**. The Commission adopts and affirms the determinations of the Human Rights Bureau to dismiss the complaints against both Respondents.

DATED this ____ day of October, 2006.

Chair Franke Wilmer
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of October, 2006.

GWENDOLYN HARSELL
2501 GARLAND DRIVE
MISSOULA MT 59803

BOB SULLIVAN
BOONE KARLBERG PC
PO BOX 9199
MISSOULA MT 59807

Montana Human Rights Bureau